

05-44481

February 12, 2010

The Honorable Robert D. Drain,

I am writing to you regarding my Administrative Claim # 20017 against Delphi. My claim, for the amount of \$528,443.24 was filed on November 5, 2009.

I disagree with the treatment of the claim classified as "Disallow and Expunge". I expect that my claim be allowed and paid in full.

Delphi's position is that this is a severance claim. I believe that they are acting irresponsibly as they know that I am pursuing legal action for an ERISA violation. Here is why I feel that way.

I had been on Delphi's extended disability leave since September 2006. I suffer from Degenerative Disk Disease, which affects about 45 % of my spinal disks. This creates significant pain, causes numbness, tingling and limits activities. The disease continues to progress. I rarely sleep more than 3 or 4 hours, have been in physical therapy for years, pursued numerous treatment options, pain management, medications, exercise and obtained numerous medical opinions, with no permanent or significant results. It has been determined that I cannot function in any regular employment.

Per the requirements of the Delphi disability program, I applied for Social Security disability and medical retirement. Social Security approved my request and benefits began in July of 2009.

I applied for medical retirement and was denied by Delphi due to a lack of documentation. Additional documentation was provided and I was rejected stating that I had not reached "MAXIMAL MEDICAL IMPROVEMENT". They also stated that this decision was made by the "Employee Benefit Plan Committee (EBPC) and was final and binding. They also stated that my only avenue now was through litigation. (See Attached)

It was interesting that this rejection letter was dated about 1 year before I had even applied for medical retirement. In addition, I later discovered that, even though they stated that my case had been reviewed by the EBPC, it had not. I reviewed my benefit book and found that "all" decisions can be appealed. I did just that.

I contacted the National Benefit Center in June and asked for as review. In July of 2009 I sent another letter appealing their decision. (See Attached)

This decision was extremely puzzling since I have no medical documentation stating that I would ever improve, which may be why it is called a **degenerative disease**. I contacted the National Benefit Center, via phone, requesting the supporting documentation, a copy of the policy governing their decision and a copy of my file. I was told they believed I was pursuing legal action and I would need a subpoena.

I appealed this decision, in writing, through the National Benefit Center in June of 2009.

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S.D.

Fortunately, I received Medicare and supplemental coverage on September 1st for myself. However, obtaining COBRA for my family has been difficult. It has taken over two months to resolve this situation

I have retained legal counsel regarding Delphi's actions and their violations of ERISA law. Because of their actions, I must now incur additional expenses in an effort to obtain the benefits supposedly available to employees.

My attorney contacted Delphi and they stated that due to the errors they made, they would allow me to appeal my medical retirement claim within the next 60 days. It was also discovered in a letter from Delphi to my attorney, the PBGC had instructed Delphi to resolve any appeals for medical retirement prior to the pension plan termination date of July 31, 2009. My appeal was never answered; instead Delphi obviously decided to deal with my situation by severing me!

Delphi then contacted my attorney and stated that since I had returned to work, I was no longer on disability, they had closed my claim and therefore I was done.

My attorney contacted me and asked when I had returned to work. I stated that I had not. The next day I received a check, delivered via FEDEX, that was for severance payment. However, the amount was wrong, it was too large. I contacted the Delphi Personnel Department and was told that they decided to pay me for one day. This seems very odd, they can pay me for a day, claim I returned to work when I did not and walk away from all responsibility!

In total, I have received 3 checks for temporary layoff, one-month severance and the supposed day that they paid me. Two checks came from the old Delphi, one from the new Delphi. I have not cashed any of these checks.

In addition, Delphi's National Benefit Center sent me a letter, dated November 11, 2009 stating that as a Delphi salaried employee rehired with seniority, I was eligible for benefits on my rehire date. In addition, on November 21, 2009 I received new insurance cards from Delphi's insurance carrier, Blue Cross.

I turned all of this over to my attorney.

Delphi, and their agents, the National benefit center and MetLife have failed to adequately provide documentation requested, an explanation of their decisions, and continue to stall. They have yet to respond completely to my requests or the requests of my attorney.

It appears that they brought me in to the medical, with the predetermination, to severe me, even after they knew I have received Social Security Disability. They have ignored the documentation of numerous specialists, as well as the independent doctor that they selected.

They have yet to respond to my requests for the medical evidence supporting their decision, the copy of my file or my appeal.

I was requested to return to the Delphi Medical department for an examination on August 14th. I went to the appointment since failure to do so results in a voluntary quit. I arrived at security and found that I was no longer listed as an employee.

Once in medical, I provided the doctor 47 pages of documents including test results, reports from spinal specialists, documents from my doctor stating that I could not return to work, documents from the **Delphi selected independent doctor**, who confirmed, on 2 separate occasions, that I was unable to return to work and the Social Security documents stating that I was disabled. He only had time to skim the documents and put no value on them.

The Delphi doctor stated, "no doctor can heal you; you must heal yourself". He also told me I was "like the Iraq war vet that lost his legs, you need to quit sitting around feeling sorry for yourself and get on with your life". I could not believe he said that! Worst of all he repeated it on two additional occasions.

After a long discussion, I realized that he did not believe the doctors or specialists, the test results, my primary care doctor, the independent doctor they selected or Social Security's decision. I believe his decision was made before I arrived. In addition, I'm not sure how he arrived at his decision, as **he did not examine me!**

The Delphi doctor contends that I am able to sit for ½ and hour and stand for 1 hour and therefore approved me to return to work, against my doctor's orders. It was becoming more obvious this decision was orchestrated to get me off the Delphi payroll!

A personnel representative was summoned. When asked what type of job they had working 1-½ hours per day, she told me there were no jobs and they would offer me a severance package.

This provides a temporary layoff for the remainder of August, six months of severance, and a COBRA allowance. All I had to do was sign an agreement relinquishing all legal rights including, but not limited to, employment, disability, ERISA laws, and civil rights. If I did not sign, I would be limited to temporary layoff for the remainder of August and one month of severance for September.

I left medical and consulted with my attorney, who specializes in ERISA law.

The severance package was mailed to me and received on August 20. I was left to replace medical and life insurance in just 10 days. Even though I had paid for insurance coverage in September, Delphi cancelled the coverage.

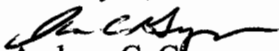
They have played games and caused numerous delays. All this, I believe, in an effort to either frustrate me until I go away, until I give up the fight with my attorney, or until they can convince you to disallow my claim. It appears that they had waited until August in an effort to minimize the amount of time that I had to react and have delayed everyway that they can.

I, or my attorney, have provided Delphi, the National Benefit Center or MetLife all documentation. They have copies of all the documentation that I have mentioned previously. We have not received the same cooperation in return. .

Since they have failed to cooperate with my attorney, or myself, I believe our only recourse is through the Bankruptcy or Federal court.

Please do not disallow or expunge my claim.

Thank you,


Andrew C. Gregos
3076 Crescent Dr.
Warren, Ohio 44483
330-393-3328

Cc: DPH Holdings Corp.
5725 Delphi Drive
Troy, Michigan 48098
Attn: President

Skadden, Arps, Slate, Meagher, & Flom LLP
155 North Wacker Dr.
Chicago, Illinois 60606
Attn: John Wm Butler Jr., John K. Lyons and Joseph N. Wharton

Calculations for lost Extended Disability (EDB) leave or Medical Retirement

EDB or Medical Retirement is payable until age 65

As of August 2009, it is 11 years, 4 months until I reach age 65 or 11.33 years

	Monthly	Annually
Current EDB payments	\$5,724.00	\$68,688.00
SSDIB	\$2,205.00	\$26,460.00
EDB less SSDIB	\$3,519.00	\$42,228.00
Lost EDB income for 11.33 years (or medical retirement)		\$478,443.24
Estimated Attorney & Misc Fees		\$50,000.00
Total		\$528,443.24

July 20, 2009

Fidelity National Benefit Center
P.O. Box 5078
Southfield, MI 48086-5078
FAX - 313-230-7490

SENT CERTIFIED
MAIL - REC'D AT
FIDELITY NATIONAL
Benefit Center on
7/23/09


Dana,


Thanks for talking with me on July 9, 2009.

I am writing to you in regard to your "Notice of Denial (SRP-23)" dated July 2, 2007 in which the Employee Benefit Plans Committee (EBPC) decided to deny my Medical Retirement request based on "not having reached Maximal Medical Improvement." (Copy enclosed).

As discussed on the phone, I had previously called the National Benefit Center asking for copies of the documentation used to support this decision. I was told that all documentation had been provided by me and therefore copies should not be required. Since I have a "degenerative disease" and I have no documentation stating that I will ever improve, I could not understand how EBPC arrived at their decision. I was also told that I would need to obtain a subpoena if I wanted this information. I then sent a written request for the same information.

In the letter from the National Benefit Center it is stated that this decision was recommended for re-evaluation after one year. In addition, it is also stated that the decision of the EBPC is "final and binding" but I may pursue "Civil Action under Section 502(a) of the Employee Retirement Income Security Act of 1974, as amended". I view legal action as a last resort since it proves to be costly for both parties.

I was reviewing my benefit book the other day and noticed that on page 127 under "Enforce your Rights", it states that I have the right to "obtain copies of documents relating to the decision without charge, and to appeal any denial, all within certain time limits". A copy of this page is enclosed for your reference. As you are aware, I have previously requested the documentation regarding this decision on my denial, both verbally and in writing, and have yet to receive it. 

In addition, my benefit book states that I may appeal "any" decision within certain time limits, however, there are no time limits identified. With this in mind, I am appealing the EBPC's decision to deny my Medical Retirement request based on "not having reached Maximal Medical Improvement." 

Thank you,

Andrew C. Gregos
3076 Crescent Dr. NE
Warren, Ohio 44483
330-393-3328

PS - A copy of this letter will also be mailed.

July 2, 2007

Andrew C Gregor
3076 Crescent DR NE
Warren, OH 44483-6302

DATE is Prior
TO my original
APPLICATION for
MEDICAL RETIREMENT

4/4
Fidelity Benefit Center
<http://www.yourdelphibenefits.com>
1-877-389-2374
International Access
Dial AT&T Direct® Access Code, then
877-833-9900
TTY Service for the Hearing Impaired
1-877-322-0706

Re: Notice of Denial (HRP-25)

Dear Andrew Gregor:

With respect to your recent appeal to the Employee Benefit Plans Committee (EBPC) following denial of your appeal to the Plan Administrator as to whether you should be deemed to be totally and permanently disabled, it has been determined that pursuant to the definition contained in the Delphi Retirement Program for Salaried Employees you are not totally and permanently disabled. The EBPC has determined that you are not totally and permanently disabled for the following reason(s):

You have not reached Maximal Medical Improvement (MMI) yet. Re-evaluation in one year is recommended.

The EBPC of the Corporation, which has been delegated authority to construe, interpret, apply and administer the Program, is the final review authority with respect to any appeal. The decision of the EBPC is final and binding. However, you also have a right to bring a Civil Action under Section 502(a) of the Employee Retirement Income Security Act of 1974, as amended.

Sincerely,

Fidelity Benefit Center

Attachment 1